

Registered with the Registrar
of Newspapers for India under
No. M. 8270



Registered No.
TN/PMG(CCR)/42/09-11
WPP No. 88(556)
Dated : 31-8-2009
Price : Rs. 5-00

புதுச்சேரி மாநில அரசிதழ்
La Gazette de L'État de Poudouchéry
The Gazette of Puducherry
PART - II

சிறப்பு வெளியீடு	EXTRAORDINAIRE	EXTRAORDINARY
அதிகாரம் பெற்ற வெளியீடு	Publiée par Autorité	Published by Authority
விலை : ரூ. 5-00	Prix : Rs. 5-00	Price : Rs. 5-00

எண்	புதுச்சேரி	திங்கட்கிழமை	2009 ஆம் ஆகஸ்ட் மீ 31
No. } 28	Poudouchéry	Lundi	31 Août 2009
No. }	Puducherry	Monday	31st August 2009

(8 Bhadra 1931)

GOVERNMENT OF PUDUCHERRY
LEGISLATIVE ASSEMBLY SECRETARIAT

No. 14744/2009-LA(Legn.).

Puducherry, the 31st August 2009.

Under rule 140 of Rules of Procedure and Conduct of Business
of the Pondicherry Legislative Assembly, the following Bills viz.,

- (a) The Puducherry Value Added Tax (Amendment) Bill, 2009
(Bill No. 10 of 2009) ; and
- (b) The Puducherry Value Added Tax (Second Amendment) Bill, 2009
(Bill No. 11 of 2009)

which were introduced in the Legislative Assembly on August 27, 2009,
are published for general information :—

‘A’

THE PUDUCHERRY VALUE ADDED TAX
(AMENDMENT) BILL, 2009

(Bill No. 10 of 2009)

A

BILL

**further to amend the Puducherry Value Added
Tax Act, 2007.**

BE it enacted by the Legislative Assembly of
Puducherry in the Sixtieth Year of the Republic of India
as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Puducherry
Value Added Tax (Amendment) Act, 2009.

(2) It shall come into force at once.

Amendment
of section 2.

2. In the Puducherry Value Added Tax Act, 2007
(hereinafter referred to as the principal Act), in section 2,
after clause (h), the following clause shall be inserted,
namely :—

Act
No.9
of
2007.

“(h-A) “branded” means any goods sold
under a name or a trade mark registered or pending
registration or pending registration of transfer
under the Trade and Merchandise Marks Act, 1958
or the Trade Marks Act, 1999;”.

Central
Act
43 of
1958.
Central
Act
47
of
1999.

Amendment
of
section 12.

3. In section 12 of the principal Act, for sub-
section (1), the following sub-sections shall be
substituted, namely :—

“(1) In the case of any registered dealer, where –

(i) the business has been discontinued, transferred as a whole or otherwise disposed off, or

(ii) the total turnover for two preceding consecutive years is less than rupees ten lakhs, or

(iii) any dealer registered under this Act has committed the offence of evasion of tax, or

(iv) the dealer dies,

the registering authority may, either of his own motion or on the application of the dealer, in the case of death on the application by his legal representative, in the prescribed manner, cancel the registration from such date, as he considers fit having regard to the circumstances of the case.

(1A) Notwithstanding anything contained in sub-section (1), the registering authority shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.”.

4. In section 14 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

Amendment
of section 14.

“(3) The parts, spares and accessories to the goods shall be taxable at the same rates as applicable to such goods.”.

5. In section 15 of the principal Act, in sub-section (3),—

Amendment
of section 15.

(a) in clause (i), after the existing proviso and before the Explanation, the following proviso shall be inserted, namely :—

“Provided further that no such deduction under clause (i) of this sub-section shall be made, where the amount or the aggregate of the amount paid or credited or likely to be paid or credited, during the year, by such person to the dealer for execution of the works contract including civil works contract does not or is not likely to, exceed rupees one lakh.”; and

	(b) in clause (iii), for the words "fifteen days", the words "three days" shall be substituted.
Amendment of section 16.	6. In section 16 of the principal Act, in sub-section (2), after clause (vii), the following clause shall be inserted, namely:— “(viii) for the dealers paying tax under sub-section (2) of section 15 of this Act.”.
Amendment of section 21.	7. In the principal Act, in section 21, after the words and figures "Central Sales Tax Act, 1956 and", the words, "the sale of goods to Special Economic Zone Unit as defined under" shall be inserted.
Amendment of section 24.	8. In section 24 of the principal Act, in the proviso to sub-section (2), for the words "for a year", the words "for a tax period or tax periods" shall be substituted.
Insertion of new section 24A.	9. After section 24 of the principal Act, the following section shall be inserted, namely :—
Provisions relating to payment of penalty for delay in payment of tax.	<p>“24A. Notwithstanding anything contained in the proviso to sub-section (2) of section 24 and in sub-sections (1) and (4) of section 37 but subject to the other provisions of sub-sections (1) and (2) of section 24, any tax due or payable under this Act by any dealer or any person in respect of any tax period shall be paid in such manner and within such time as prescribed under this Act or under the rules framed under this Act:</p> <p>Provided that if any such dealer or person fails to pay such tax due or payable along with the return within the time prescribed therefor, the dealer or person shall pay by way of penalty, in addition to the amount due or payable, a sum equal to two per cent. of such amount for each month of default or part thereof after the date prescribed for its payment subject to the condition that the penalty in respect of part of a month shall be computed proportionately and for this purpose, a month shall mean a period of thirty days:</p>

Provided further that if any default is made in payment of such tax, the whole amount outstanding on the date of default along with the penalty prescribed in the first proviso shall become immediately due and shall be the first charge on the properties of the dealer or person liable to pay the tax or penalty and such tax and penalty shall be recovered as per sub-section (3) of section 37 of this Act.”.

10. In section 31 of the principal Act, the words, brackets and figure “sub-section (1) of ” shall be deemed to have been omitted with effect from 1st day of April, 2009.

Amendment
of
section 31.

11. In section 37 of the principal Act, in sub-section (3),—

Amendment
of
section 37.

(i) the words, “and in respect of which no appeal or revision or such other proceedings as provided under this Act is pending before any authority or Appellate Tribunal or High Court,” shall be omitted;

(ii) after clause (b), the following proviso shall be inserted, namely :—

“Provided that no proceedings for such recovery shall be taken or continued as long as he has, in regard to the payment of such tax, other amount or fee, as the case may be, complied with an order by any of the authorities to whom the dealer or person has appealed or applied for revision, under sections 45, 47, 49, 50 or 51.”.

12. In section 77 of the principal Act, for the words, “Deputy Commissioner”, the words “Deputy Commissioner or Assistant Commissioner” shall be substituted.

Amendment
of
section 77.

STATEMENT OF OBJECTS AND REASONS

The Puducherry Value Added Tax Act, 2007 is proposed to be amended for improving the operational efficiency and to meet administrative necessity in the enforcement of VAT law in the Union Territory.

It is proposed to add a new definition clause in section 2 of the said Act for the word “branded” with a view to regulate the rate of tax by differentiating the product as branded or unbranded. Section 12 is proposed to be amended to provide for cancellation of Registration Certificate in the event of any registered dealer being found to have committed the offence of evasion of tax. Hence section 12 is proposed to be amended suitably alongwith the consequential amendments thereto. The existing provisions of sub-section (3) of section 14 providing for levy of tax on spares and accessories of goods specified in the Schedule need to be revised. Hence section 14(3) is proposed to be amended along with consequential amendments in section 31 of the Act.

The awarder of works contract has to deduct the tax and remit the same to the Government. This situation casts a heavy burden on small and petty contractors. Hence it is proposed that tax will not be deducted when the contract amount to be paid or likely to be paid to a contractor for execution of works contracts does not or is not likely to exceed rupees one lakh in a year. It is also proposed to shorten the period for furnishing of certificate of payment of tax in the case of works contract from fifteen days to three days. Input tax credit will not be allowed to those dealers opting for compounding tax in the case of works contract.

In order to discourage tax payers from belatedly remitting the tax due to the Government, a penalty provision is also proposed. Where the dealers liable to pay tax for any tax period fail to pay tax, provisions for scrutiny assessment is proposed. It is also proposed that only the sales to Special Economic Zone Unit will be zero-rated. Moreover when the appeal or revision is pending, certain difficulties are encountered while collecting the assessed tax. As such, for facilitation of collection of arrears, the barriers on account of pendency of appeal or revision are proposed to be removed. It is proposed to insert the words “Assistant Commissioner” in section 77 of the Act with a view to meet the administrative exigencies.

For the above purpose, amendments are proposed to sections 2, 12, 14, 15, 16, 21, 24, 31, 37 and 77 and a new section namely, section 24A is proposed to be inserted. Accordingly a Bill titled “the Puducherry Value Added Tax (Amendment) Bill, 2009” is proposed to be enacted.

This Bill seeks to achieve the above objects.

V. VAITHILINGAM,
Chief Minister.

ADMINISTRATOR'S RECOMMENDATION UNDER
SUB-SECTION (1) OF SECTION 23 OF THE GOVERNMENT OF UNION
TERRITORIES ACT, 1963

[Copy of the letter No. 0913/PS/CM/09, dated 25th August 2009
from Thiru V. Vaithilingam, Hon'ble Chief Minister, to the Hon'ble
Speaker, Legislative Assembly, Puducherry.]

The Lieutenant-Governor, Puducherry having been informed of the subject matter of the proposed Puducherry Value Added Tax (Amendment) Bill, 2009 providing for the levy of Value Added Tax in the Union Territory, recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963 (Central Act 20 of 1963), the introduction in and consideration by the Legislative Assembly of the said Bill.

M. SIVAPRAKASAM,
Secretary,
Legislative Assembly Secretariat.

‘B’

THE PUDUCHERRY VALUE ADDED TAX
(SECOND AMENDMENT) BILL, 2009
(Bill No. 11 of 2009)

A

BILL

**further to amend the Puducherry Value Added
Tax Act, 2007.**

BE it enacted by the Legislative Assembly of
Puducherry in the Sixtieth Year of the Republic of India
as follows:—

Short title
and
commencement.

1. (1) This Act may be called the Puducherry
Value Added Tax (Second Amendment) Act, 2009.

(2) It shall be deemed to have come into force
with effect from the 25th day of August, 2009.

Amendment
of the First
Schedule.

2. In the Puducherry Value Added Tax Act, 2007
(hereinafter referred to as the principal Act), in the First
Schedule,—

Act
No. 9
of
2007.

(a) after the serial number 10 and the entries
relating thereto, the following shall be inserted,
namely :—

“10A. Building materials, namely :—

- (a) Asbestos cement sheets,
- (b) Bricks,
- (c) Cement,
- (d) Electrical goods,
- (e) Hardware items,

-
- (f) Paints,
 - (g) Pipes and fittings,
 - (h) River sand,
 - (i) Sanitary wares and fittings,
 - (j) Steel, and
 - (k) Water tanks,

sold by the Pondicherry Co-operative Building Centre Limited, No. 554, Puducherry and Karaikal Central Co-operative Processing Supply and Marketing Society Limited, No. P. 15, Karaikal for the construction of dwelling houses, to any person other than the dealers executing works contract.”;

(b) after the serial number 18 and the entries relating thereto, the following shall be inserted, namely :—

“18A. Diesel sold to fishermen for fishing activities through the designated petrol bunks, subject to such conditions and restrictions as notified by the Director of Fisheries and Fishermen Welfare, Puducherry”; and

(c) after the serial number 45 and the entries relating thereto, the following shall be inserted, namely:—

“45A. Ready to eat unbranded foods including sweets, savouries, unbranded non-alcoholic drinks, beverages and mineral water served in or catered indoors or outdoors by M/s. Indian Coffee Workers’ Co-operative Society Limited, Puducherry.”.

Amendment
of the Fifth
Schedule.

3. In the Schedules appended to the principal Act,
under the heading “THE FIFTH SCHEDULE”,—

(a) above the caption “LIST OF GOODS
TAXABLE AT THE RATE OF TWENTY
PER CENT. AT THE POINT OF FIRST SALE ”,
the following shall be inserted, namely :—

“PART—A”; and

(b) after the ‘PART-A’, as so sub-divided above
and the entries specified thereunder, the following
part, caption and entry shall be inserted, namely:—

“PART—B

LIST OF GOODS TAXABLE AT THE RATE OF
TWENTY PER CENT. AT EACH POINT OF SALE

[See section 14 (1)]

Sl. No.	Description of goods
1.	Cigarettes .”.

STATEMENT OF OBJECTS AND REASONS

In the Budget Speech for 2009-10, certain fiscal measures were
announced by the Hon’ble Chief Minister on the Floor of the House.

2. In order to give effect to the above fiscal measures, the sale of
diesel to fisherman for fishing activities, the building materials sold by
certain Co-operative institutions at Puducherry and Karaikal for the
construction of dwelling houses and in respect of the sale of food and
drinks by a Co-operative Society have been allowed exemption from levy
of tax and the rate of tax on the sale of cigarettes has been increased
from 12.5% to 20% by virtue of notification issued under section 75 of the
Puducherry Value Added Tax Act, 2007 (Act No.9 of 2007).

3. In order to give effect to the amendments made in the First and Fifth Schedules of the said Act through the said notification, a Bill titled “the Puducherry Value Added Tax (Second Amendment) Bill, 2009” is proposed to be enacted.

4. This Bill seeks to achieve the above objects.

V. VAITHILINGAM,
Chief Minister.

ADMINISTRATOR'S RECOMMENDATION UNDER
SUB-SECTION (1) OF SECTION 23 OF THE GOVERNMENT OF UNION
TERRITORIES ACT, 1963

[Copy of the letter No. 0913/PS/CM/09, dated 25th August 2009
from Thiru V. Vaithilingam, Hon'ble Chief Minister, to the Hon'ble
Speaker, Legislative Assembly, Puducherry.]

The Lieutenant-Governor, Puducherry having been informed of the subject matter of the proposed Puducherry Value Added Tax (Second Amendment) Bill, 2009 providing for the levy of Value Added Tax in the Union Territory, recommends under sub-section (1) of section 23 of the Government of Union Territories Act, 1963 (Central Act 20 of 1963), the introduction in and consideration by the Legislative Assembly of the said Bill.

M. SIVAPRAKASAM,
Secretary,
Legislative Assembly Secretariat.